

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOANNE R. SCHEAFNOCKER,

Plaintiff(s),

08cv0278

ELECTRONICALLY FILED

v.

COMMISSIONER OF INTERNAL REVENUE,

Defendant(s).

Memorandum Order

AND NOW, this 26th day of January, 2012, after having considered Defendant's Motion to Strike the Jury Demand (doc. no. 93) and Plaintiff's Response Thereto (doc. no. 95), IT IS HEREBY ORDERED that Defendant's Motion to Strike the Jury Demand is GRANTED.

It is well established that the Seventh Amendment right to trial by jury does not apply to actions against the United States. *Lehman v. Nakshian*, 453 U.S. 156, 162 n. 9 (1981); *Glidden Co. v. Zdanok*, 370 U.S. 530, 572 (1962); *Galloway v. United States*, 319 U.S. 372, 388-389 (1943). *Young v. United States Postal Service*, 869 F.2d 158, 159 (2d Cir. 1989). This is true even if the named defendant is an official acting for the government, as here. *See, e.g., Leman*, 435 U.S. at 170 (no right to jury found in suit against Secretary of the Navy).

Based upon the binding authority cited by Defendant in its Motion (as cited above), and Plaintiff's Response thereto (wherein she acknowledges the lack of binding authority to support her Demand for Jury Trial), Plaintiff does not have a right to trial by jury in the above-captioned case.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties

Joanne R. Scheafnock
6440 Silkwood Way
Citrus Heights, CA 95621